



A REPORT
TO THE
MONTANA
LEGISLATURE

PERFORMANCE AUDIT

Insure Montana Program

State Auditor's Office

DECEMBER 2010

LEGISLATIVE AUDIT
DIVISION

10P-09

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Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, journalism, accounting, economics, sociology, finance, political science, english, anthropology, computer science, education, international relations/security, and chemistry.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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LEGISLATIVE AUDIT DIVISION

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December 2010

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Insure Montana Program managed by the Insure Montana Board of Directors and the State Auditor's Office.

This report provides the Legislature information about how the Insure Montana Program assists small businesses with the cost of health insurance. This report includes recommendations for improving the eligibility and administrative processes of the Insure Montana Program, as well as, ensuring the program is operating under clear guidelines.

We wish to express our appreciation to the State Auditor's Office personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

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Walt Schweitzer, Deputy State Auditor

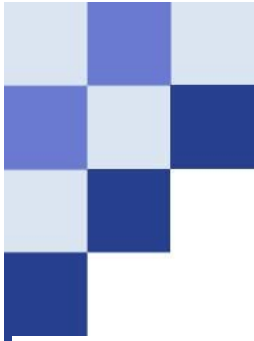
Bob Moon, Deputy Insurance Commissioner

Jill Sark, Director, Insure Montana Program

Insure Montana Board Members

			<u>Term Expires</u>
John Thomas	Helena		January 2012
Jim Edwards	Clancy		June 2012
Erin McGowan Fincham	Helena		June 2013
Jessica Rhoades	Helena		*
Betty Beverly	Helena		January 2013
Bob Marsenich	Polson		January 2011
Katherine Buckley-Patton	Helena/Dillon		January 2013
David B. Kendall	Missoula		June 2011
Carol Roy	Helena		*

*Jessica Rhoades from the Governor's Office and Carol Roy from the State Auditor's Office serve as the nonvoting staff appointments to the board.



MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT

Insure Montana Program

State Auditor's Office

DECEMBER 2010

10P-09

REPORT SUMMARY

While Insure Montana assists over 1,600 small businesses in obtaining health insurance coverage, in 2010, the program made or scheduled improper payments to ineligible businesses or individuals; controls could be strengthened to ensure ineligible businesses do not receive payments.

Context

Insure Montana was established in 2005 and is administered by the State Auditor's Office. It is a two-part program designed to assist small businesses with the cost of health insurance. The program began accepting applications in 2005 and currently has five staff whose duties include processing applications, determining eligibility, calculating and providing payments to participants, and auditing businesses.

The purchasing pool program is offered to small businesses who have not offered group health insurance to its employees. Once small businesses enroll in the program, they are eligible to select from health insurance plans through the purchasing pool or Qualified Association Plans. Both the employer and employees are entitled to receive subsidies from the program that cover a portion of the premium.

Insure Montana's tax credit program is offered to small businesses that have already purchased group health insurance in the existing marketplace for their employees. The program provides a refundable state income tax credit to employers who contribute to their employees' health insurance premium and are enrolled in the program.

Due to funding availability, both the purchasing pool and tax credit programs have reached full capacity. Therefore, both programs have waiting lists for small businesses. As of October 2010, there were 111 businesses on the purchasing pool waiting list and 67 businesses on the tax credit list. When an opening becomes available, these businesses will be eligible to enroll in the program in the order that they applied.

Results

Audit work found Insure Montana assists small businesses with the cost of health insurance, but it can further improve its controls over determining eligibility, improve the administration of the program, and ensure it operates under clear statutory guidelines.

During its application process, Insure Montana requires small businesses and their employees self-report eligibility information. Audit work identified various businesses and/or employees that were potentially ineligible for Insure Montana benefits based on information obtained from the Department of Labor and Industry and Department of Revenue. These businesses and/or employees either received or were scheduled to receive over \$300,000 in benefits from Insure Montana for calendar year 2010. Since 178 businesses are currently on the waiting list and statute clearly outlines eligibility requirements, we made recommendations to the State Auditor's Office to verify income of participating business owners and their employees, verify the businesses' number of eligible employees, and verify whether businesses have delinquent state income tax owing to the Department of Revenue.

Audit work also identified improvements in the program's administrative processes. Recommendations related to this area include enhancing the current database to ensure program staff have access to a businesses' historical data, collecting a unique primary identifier for all individuals, and addressing the number of collections and overpayments.

Audit work also identified areas in which statute could be strengthened to ensure the program operates under clear guidelines. Recommendations related to this area include impacts related to the definition of a related

employer, complying with the current statutory guidelines for the insurance rating process, and ensuring governance responsibilities of the purchasing pool Board of Directors and Insurance Commissioner are clearly defined.

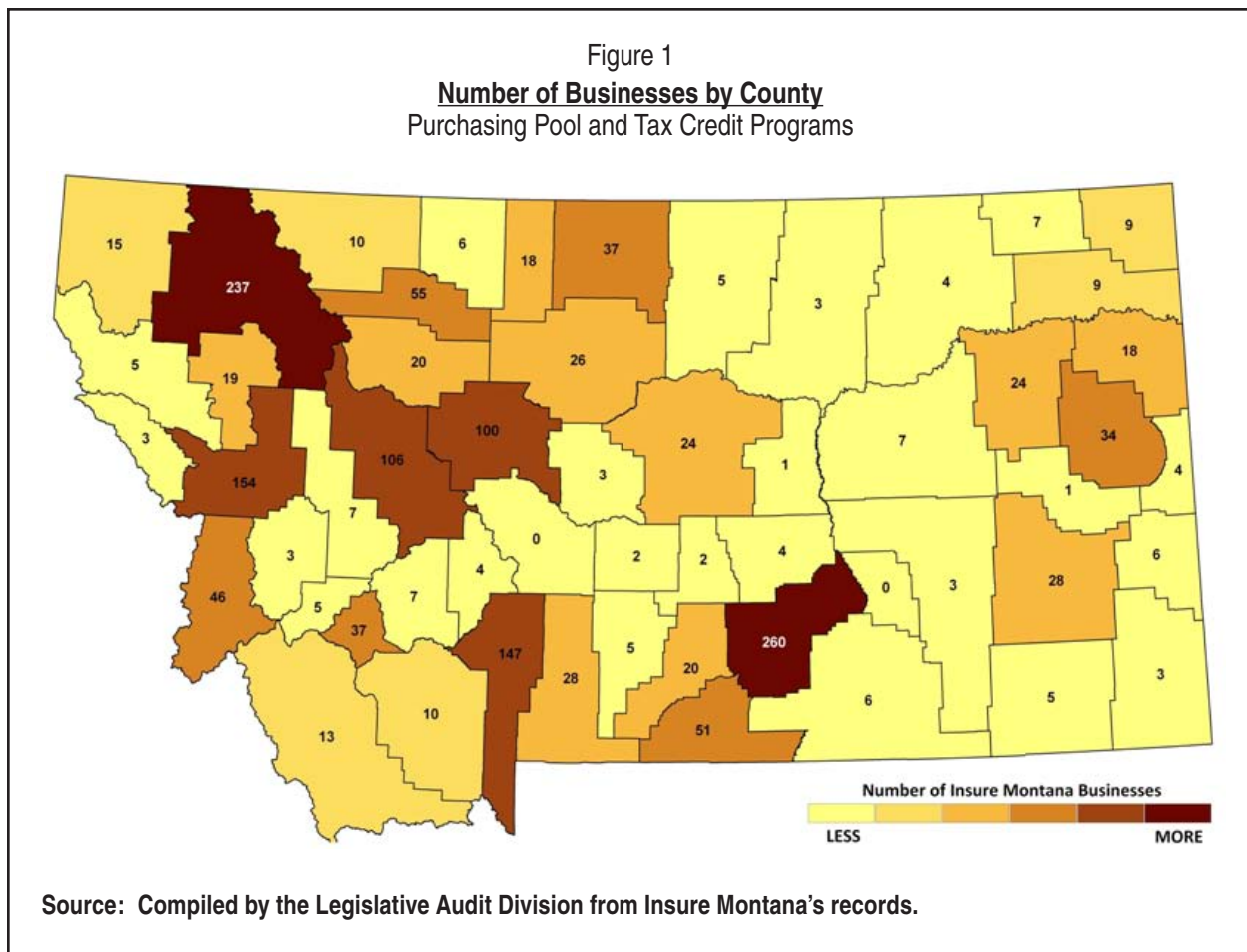
Recommendation Concurrence	
Concur	7
Partially Concur	0
Do Not Concur	1
Source: Agency audit response included in final report.	

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 Call toll-free 1-800-222-4446, or e-mail lad@mt.gov.

Chapter I – Introduction and Background

Introduction

Insure Montana was established in 2005 and is administered by the State Auditor's Office. It is a two-part program designed to assist small businesses with the cost of health insurance. The purchasing pool program provides group health insurance through a pool of small businesses. Additionally, participants in the purchasing pool receive subsidy payments to assist with the cost of coverage. The tax credit program provides refundable tax credits to small businesses that offer group health insurance to their employees. While the program currently assists over 1,600 small businesses, the number of businesses that can enroll in the program is limited due to funding. The following map shows the total number of businesses in both the purchasing pool and tax credit programs by county.



The Legislative Audit Committee requested a performance audit of Insure Montana. In 2008, the Legislative Audit Division conducted an audit assessment of the Insure Montana program. At that time, auditors believed reasons did exist that warranted an

audit; however, the audit was delayed until 2009 due to the program being relatively new and significant turnover in staff and management.

Background

The program is designed to assist small businesses, regardless of whether they currently offer health insurance. The program began accepting applications in 2005 and currently has five FTE whose duties include processing applications, determining eligibility, calculating and providing payments to participants, and auditing businesses.

The program is funded through the Health and Medicaid Initiatives Account which is a state special revenue account generated from the taxation of tobacco products. In 2009, the legislature increased funding for the program by

\$6 million for the 2011 biennium. Table 1 depicts the total amount of expenditures broken out by benefits paid to businesses and administrative costs over the past five fiscal years.

Table 1 <u>Insure Montana Expenditures</u> Fiscal Years 2008 through 2010			
Fiscal Year	Benefits Paid to Businesses	Administrative Expenditures	Total Expenditures
2008	\$8,430,913	\$324,871	\$8,755,784
2009	\$8,808,997	\$454,769	\$9,262,766
2010	\$9,648,066	\$724,390	\$10,372,456

Source: Compiled by Legislative Audit Division from SABHRS data.

Purchasing Pool Program

The purchasing pool is a program offered to small businesses who have not offered group health insurance to its employees. Once small businesses enroll in the program, they are eligible to select from three health insurance plans through the purchasing pool. The insurance plans are administered by a contracted insurance company. In return, both the employer and employees are entitled to receive subsidies from the program that cover a portion of the premium. Approximately 850 businesses are currently enrolled in the purchasing pool program.

Purchasing Pool Board of Directors

Section 33-22-2003, MCA, establishes a Board of Directors for the purchasing pool. Currently, members of the Board are required to possess collective knowledge in various aspects of the program including:

- ♦ a consumer representing the small business community

- ♦ a consumer representing the public interest
- ♦ a person with specialized knowledge regarding health insurance

Some of the Board's responsibilities include, establishing an operating plan for the purchasing pool, approval of group health plans selected for the program, and contracting with health insurance providers to offer group health plans through the purchasing pool.

Insurance Coverage Offered through the Purchasing Pool

Businesses participating in the purchasing pool program can choose from health insurance plans offered through the purchasing pool. Currently, the Board of Directors has contracted with one insurance company to offer three different levels of health plans to small businesses through the purchasing pool. These include:

- ♦ A Premier Plan with a \$750 deductible.
- ♦ A Standard Plan with a \$1,500 deductible.
- ♦ A Comprehensive Major Medical Plan with a \$2,700 deductible and a Health Savings Account option.

Businesses can also choose from health insurance plans offered through Qualified Association Plans (QAP). Generally, QAPs are offered through associations that have a purpose for existing other than providing health benefits to members, these include labor unions, credit unions, trade associations, etc. Each QAP approved for the Insure Montana program offers a variety of plans, with a range of premium costs, deductibles, and coverage. Businesses that are members of the following associations and are participating in Insure Montana can purchase health insurance through the association's QAP:

- ♦ Montana Nonprofit Association
- ♦ State Bar of Montana
- ♦ Montana Chamber Choices
- ♦ Montana Logging Association
- ♦ Western Petroleum Marketers Association
- ♦ Montana Retailers Association
- ♦ National Federation of Independent Business
- ♦ Montana Building Industry Association
- ♦ Employer's Association of Western Montana
- ♦ Montana Automobile Dealers Association

Subsidies Offered to Participating Small Businesses

As stated above, participants of the purchasing pool program are eligible to receive insurance coverage through the purchasing pool or an approved QAP. In return, Insure Montana provides employers and their employees subsidy payments. The employer's subsidy is based on the amount of premium paid by the employer for all employees and is referred to as an incentive payment. The employee's subsidy is based on the amount of the premium paid by the employee and is referred to as an assistance payment. The amount of the incentive and assistance payments is established by the Board of Directors. The amount of total subsidy payments to businesses and individuals in fiscal year 2010 totaled \$5.3 million.

Tax Credit Program

Insure Montana's tax credit program is offered to small businesses that have already purchased group health insurance in the existing marketplace for their employees. The program provides a refundable state income tax credit to employers who contribute to their employees' health insurance premium and are enrolled in the program. The program allows for additional tax credits when the employer contributes to the employees' spouse or dependents premium. Approximately 830 businesses are currently enrolled in the tax credit program. The amount of tax credit payments in fiscal year 2010 was \$4.3 million.

Waiting List for Both Programs

Due to limited funding, both the purchasing pool and tax credit programs have reached capacity. Therefore, both programs have waiting lists for small businesses. As of October 2010, there were 111 businesses on the purchasing pool waiting list and 67 businesses on the tax credit list. When an opening becomes available, these businesses will be eligible to enroll in the program in the order they applied.

Eligibility Requirements for Both Programs

To participate in the Insure Montana program, small businesses must submit an application and meet eligibility requirements as outlined in §33-22-2006, MCA. Eligibility requirements apply to both of the purchasing pool and the tax credit programs. Eligibility requirements include, but are not limited to, the business may not have less than two or more than nine employees, it must provide group health insurance to its employees, and must not have delinquent state income tax. The following chapter further discusses eligibility requirements and the program's controls over determining eligibility.

Audit Objectives

Based on our assessment of the Insure Montana program, we developed three audit objectives.

1. Determine whether eligibility decisions and payments are accurate and adhere to policy and procedures.
2. Determine whether program administration could be strengthened.
3. Assess statutory requirements for program administration.

Audit Scope

Audit scope focused on eligibility and payment processes and the overall operations of the program. Our review included examining application information reported by small businesses, as well as comparing businesses' reported data to Department of Labor and Industry and Department of Revenue. The scope of our audit generally focused on documentation and eligibility decisions for calendar years 2009 and 2010. We did not examine the level of coverage (e.g. benefits offered, deductibles, premium costs, copayments, etc.) offered through the purchasing pool program or any other analysis of the insurance product offered by Insure Montana.

Audit Methodologies

To address the audit objectives we conducted the following audit work:

- ♦ Interviewed Insure Montana program management and staff.
- ♦ Reviewed contracting documents for the purchasing pool insurance provider.
- ♦ Interviewed the purchasing pool insurance provider's staff.
- ♦ Compared activities to applicable state laws, administrative rules, and department policies and procedures.
- ♦ Examined documentation for over 30 randomly selected small businesses, including their initial and renewal applications.
- ♦ Reviewed documentation located in Insure Montana's database related to data input, eligibility decisions, and payment processing.
- ♦ Attended and observed Board of Director's and Advisory Council meetings.
- ♦ Contacted other states to obtain information related to similar programs in those states.
- ♦ Queried the Department of Labor and Industry's Montana Integrated System to Improve Customer Service database and compared results for 1,384 small businesses to Insure Montana's documentation and eligibility decisions.
- ♦ Obtained data from the Department of Revenue's Business and Income Tax Division for 1,742 small businesses and compared results to Insure Montana's documentation and eligibility decisions.

- ♦ Reviewed the program's administration and approval of Qualified Association Plans.
- ♦ Reviewed the program's waiting list procedures.
- ♦ Coordinated audit work with Legislative Audit Division's financial-compliance auditors, whose work is included in a separate report (10-20).

Report Content

The following report includes three chapters that address our audit findings, conclusions, and recommendations in the following areas:

- ♦ Chapter II provides information related to the program's controls over determining eligibility and processing payments.
- ♦ Chapter III examines the administration of the program.
- ♦ Chapter IV provides an assessment of statutory requirements for program administration.

By implementing the recommendations issued in this report, the program will be able to further improve its controls over the eligibility process, improve the administration of the program, and operate under clear guidelines.

Chapter II – Determining Eligibility of Small Businesses

Introduction

As discussed in the previous chapter, small businesses must meet eligibility requirements. These requirements are outlined in §33-22-2006, MCA, and include:

- ♦ Not have any employees, not including an owner, partner, or shareholders of the business, who received more than \$75,000 in wages from the small business.
- ♦ May not have less than two or more than nine eligible employees.
- ♦ Not have delinquent state income tax owing to the Department of Revenue from previous years.
- ♦ Currently provide or will provide health insurance to its employees.
- ♦ Registered as an eligible small employer participant.

Insure Montana, during its application process requires small businesses and their employees self-report eligibility information. This includes the number of employees, number of eligible employees, income, delinquent state income tax, etc. While the program is developing a post-audit function, Insure Montana currently does not require up-front verification of the information the business self-reports on its application. Since 178 businesses are currently on the waiting list and statute clearly outlines eligibility requirements, it is imperative the program accurately determine eligibility. The following chapter presents audit findings and recommendations to improve the program's process for determining eligibility, these include:

- ♦ Verifying income of participating business owners and their employees.
- ♦ Verifying the small businesses' number of eligible employees.
- ♦ Verifying whether the small business has delinquent state income tax.

Business Owners and Employees Must Meet Income Requirements

As discussed above, §33-22-2006(1)(e), MCA, states a business is not eligible for the purchasing pool or tax credit programs if any employee other than an owner, shareholder, or partner, receives more than \$75,000 in wages from the small employer, or related employer in the prior tax year. Additionally, §33-22-2006(2), MCA, states if an owner, partner, or shareholder of the business receives more than \$75,000 in wages, both the individual and their spouse are not eligible for assistance payments and the business is not eligible for this individual's, their spouse's or their dependents' portion

of the tax credit. However, the owner is still eligible to receive incentive payments and tax credits for the business as a whole.

Analysis Identified Business Owners and Employees Not Meeting Requirements

To verify whether participating businesses and their employees met income requirements, we obtained wage data from the Department of Labor and Industry's (DLI) Quarterly Unemployment Records for all businesses enrolled in Insure Montana during calendar year 2009. DLI collects information from all businesses that meet eligibility criteria and are required to pay state unemployment taxes. Information collected by DLI includes the employee's social security number, name, and total wages paid by the business each quarter. Since some businesses enrolled in Insure Montana are not required to submit Quarterly Unemployment Records to DLI, we were unable to test approximately 400 businesses and their employees' wages. The total number of businesses tested was 1,348.

DLI data was analyzed to identify:

1. If any employees of a business earned over \$75,000 in wages from the small business during calendar year 2009.
2. If any business owners earned over \$75,000 in wages from the small business during calendar year 2009 and did not report this to Insure Montana.

Analysis of Employees' Wages

While conducting our analysis of DLI data, we also reviewed Insure Montana's database to verify businesses with an employee earning over \$75,000 were actually receiving benefits in 2010 and that the employee was not listed as a business owner or partner in program records. At the time of our analysis, we identified 21 businesses with employees earning over \$75,000 in wages during calendar year 2009 who received Insure Montana program benefits in 2010.

Analysis of Business Owner's Wages

When conducting our analysis of DLI data related to business owners' wages, we also reviewed Insure Montana's database to verify the business owner had not already reported earning over \$75,000 in wages to Insure Montana. Based on our analysis, we identified 28 business owners and/or partners earning over \$75,000 in wages who had not reported these earnings to Insure Montana.

Businesses and Business Owners Are Receiving Benefits

Based on our analysis, the program provided these businesses and/or business owners with payments during calendar year 2010. The following table shows the amount of payments made to these businesses and/or business owners.

Table 2 Payments to Ineligible Businesses and Business Owners January 1, 2010 through August 31, 2010				
Reason for Ineligibility	Assistance Payments	Incentive Payments	Tax Credit	Total Payments
Employee Earning Over \$75,000	\$15,207	\$11,274	\$105,899	\$132,380
Business Owner Receiving Over \$75,000	\$4,834	NA	\$41,470	\$46,304
Total Payments	\$20,041	\$11,274	\$147,369	\$178,684

Source: Compiled by the Legislative Audit Division from Insure Montana's records.

As shown, the majority of payments were made to businesses that have an employee earning over \$75,000. Based on eligibility criteria outlined in statute, if one employee of a business earns over \$75,000 in wages from the business, the entire business and all employees are considered ineligible and should not receive benefits.

Other Programs Require Income Verification

When reviewing other insurance programs in the state, we identified programs that require income verification. For example, Healthy Montana Kids application process requires individuals to provide proof of all earnings through pay stubs or earning statements. Additionally, while reviewing other states' programs similar to Insure Montana, we identified the following programs require documentation related to income:

- ♦ Kentucky's Insurance Coverage Affordability and Relief to small Employers (ICARE) program requires documentation related to annual salaries for the most recent twelve months (e.g., the four most recent Employer's Quarterly Unemployment Tax Worksheet or payroll register).
- ♦ Maryland's Health Insurance Partnership program requires the business to list each employee and their calculated annual wage, as well as, the individual's wages from the most recent Quarterly Wage Report.
- ♦ Cover Tennessee requires the individual, if they filed a federal tax return, to provide a copy of their most recent IRS tax return(s). If federal tax returns have not been filed, the program requires copies of check stubs for two recent pay periods.

Verification of Income Can Be Improved

Currently, the program relies on the businesses and their employees to self-report information in October of each year. However, the program does not require the business or its employees to submit wage documentation nor does the program conduct its own testing to verify all individuals' wages. Program staff identified 25 of the 49 employees and business owners that we identified self-reported earning over \$75,000 during the renewal period in October 2010. However, these individuals were eligible to receive benefits from the program in calendar year 2010, even though they earned over \$75,000 in wages in 2009.

Based on eligibility requirements established in statute and the fact that there are 178 businesses currently on the waiting list, we believe the program could improve its verification of income to ensure individuals in the program are eligible to receive benefits. Examples of how the program could improve its verification include, but are not limited to, requiring wage documentation from the business (e.g. quarterly wage reports and/or tax returns) or completing database matching in January or later (e.g. using DLI wage data to compare to self-reported income) to ensure all business owners and employees do not earn over \$75,000 in wages in the prior tax year. By conducting a timely on-going analysis of wages, the program would be better able to ensure individuals in the program are eligible to receive benefits.

RECOMMENDATION #1

We recommend the State Auditor's Office require verification of income for both business owners and employees participating in the Insure Montana program.

Businesses Must Meet Number of Employee Requirements

According to statute, small businesses enrolling in Insure Montana may not have less than two or more than nine employees. The Commissioner has further defined eligibility in administrative rule as employers with two to nine eligible employees. According to §33-22-1803(12)(a), MCA, with some exceptions, "eligible employee" is defined as an employee who works a full-time basis with a normal workweek of 30 hours or more.

Analysis Identified Businesses May Not Be Meeting Number of Employee Requirements

To verify whether participating businesses met this specific eligibility requirement, we analyzed the wage data obtained from DLI in the above discussion. Using DLI wage data and Insure Montana information, we conducted an analysis of 1,348 businesses to identify whether any businesses appeared to have over nine eligible employees.

Analysis of the Number of Eligible Employees

Our analysis of wage data from DLI and Insure Montana data reported by the business, identified nine businesses that may be ineligible for the Insure Montana program based on the number of eligible employees. To verify the number of eligible employees, we cross-referenced Insure Montana's data and counted each participating employee that was on DLI wage data. We then counted any employee on DLI wage data that earned

more than the least compensated employee, working all four quarters, and participating in the Insure Montana program. We then totaled these two numbers (e.g. five participating and seven who appear to be eligible based on wage data). If these two numbers totaled more than nine, we determined the business could be ineligible based on its number of eligible employees. Table 3 shows the number of employees reported to Insure Montana and the number of employees, based on our analysis using DLI wage data that were eligible. To verify eligibility, further steps would need to be taken by the program.

Table 3
Number of Employees Reported to Insure Montana and Department of Labor and Industry

	Reported to Insure Montana	DLI Wages Data
Business 1	9	10
Business 2	10	11
Business 3	8	10
Business 4	8	15
Business 5	9	12
Business 6	7	10
Business 7	9	11
Business 8	9	14
Business 9	3	17

Source: Compiled by the Legislative Audit Division from Insure Montana's records and DLI wage data.

Other Programs Require Documentation of Employees

While reviewing other states' programs similar to Insure Montana, we identified programs that require documentation during their application process related to verification of the businesses' number of employees during the application process. These include:

- ♦ Kentucky's ICARE program requires businesses to list each individual employee, their hire date, whether they are enrolled in the health plan, are not eligible, or waive the insurance, and the employee's average number of hours worked per week.
- ♦ Maryland's Health Insurance Partnership program requires the business to list each eligible employee, their wages per period, their status (e.g., full-time, owner, spouse of owner/partner), hours per week, and whether they are waiving the insurance.

Verification of the Number of Eligible Employees Can Be Improved

During its application process, Insure Montana requires businesses to self-report the number of employees/owners, the number of eligible employees/owners, and the number of eligible employees/owners that will or do participate in the health insurance plan. However, the program does not require the business to individually list its employees or submit documentation related to which employees are considered eligible and which are considered ineligible based on statutory requirements.

As stated in the previous section, the program conducts random audits of businesses; however, it currently audits less than ten percent of businesses in the program. Based on eligibility requirements established in statute and 178 businesses currently on the waiting list, we believe the program could improve its verification of the number of eligible employees a business has by requiring documentation (e.g., listing each employee and their status) or completing testing (e.g., querying DLI data to identify the number of employees) to ensure the business has between two and nine eligible employees.

RECOMMENDATION #2

We recommend the State Auditor's Office verify the number of eligible employees for businesses participating in the Insure Montana program.

Employers Must Not Have Delinquent State Income Tax

The final eligibility requirement we tested relates to state income tax. According to §33-22-2006(1)(c), MCA, employers can not have delinquent state income tax owing to the Department of Revenue from previous years.

Analysis Identified Employers with Delinquent State Income Tax

To verify whether participating businesses met this eligibility requirement, we provided Department of Revenue with a list of small businesses participating in the Insure Montana program. We requested the Department of Revenue determine whether each employer had delinquent state income tax. Since the employer could file on their individual tax return (e.g. Schedule C - profit or loss from business), we also verified individual returns tied to the business. Based on the information we received from the Department of Revenue, nine participating employers are delinquent on their state income tax. Based on §33-22-2006(1)(c), MCA, these businesses are ineligible for the Insure Montana program.

Businesses Are Receiving Benefits

The nine businesses we identified have not reported having delinquent income tax to Insure Montana and therefore are currently receiving subsidy payments and tax credits. Based on our calculations using Insure Montana data, subsidy payments provided to the businesses participating in the purchasing pool through October 2010 total \$23,308. The remaining businesses are participating in the tax credit program and are scheduled to receive \$20,040 at the end of calendar year 2010.

Verification of State Income Tax Status Can Be Improved

During its application process, Insure Montana requires businesses to self-report whether they have delinquent state income tax. However, the program currently does not verify self-reported information during the application process or during its random audits of businesses.

According to a report presented to the Board of Directors in 2010, Insure Montana staff reported that one of the improvements that could be made is verifying if the business has delinquent state income tax by forming a memorandum of agreement with the Department of Revenue. Additionally, the Department of Revenue has an interest in ensuring the accuracy of tax credits for Insure Montana businesses. While the program is working on an agreement with the Department of Revenue, currently, the program is not verifying delinquent state income tax. Until an agreement is reached, the program could verify delinquent state income tax through Department of Revenue's confirmation of participating businesses' tax status.

Based on the eligibility requirement established in statute and 178 businesses currently on the waiting list, we believe the program could improve its verification of eligibility by requiring documentation or testing related to whether all participating businesses have delinquent state income tax owing to the Department of Revenue.

RECOMMENDATION #3

We recommend the State Auditor's Office verify all participating businesses' state income tax delinquency status for both purchasing pool and tax credit programs.

Chapter III - Administration of Eligibility and Payment Processes

Introduction

Insure Montana's program year runs from January 1st to December 31st, however, in October of each year, each participating business must submit a renewal application for the next year. Program staff are responsible for ensuring renewal information is updated and accurate in the Insure Montana database. Since payments made to the businesses and their employees are automatically calculated on Insure Montana's database, it is important that changes and/or updates to the business and/or their employees are accurately reflected in the database.

The following chapter presents audit work conducted to determine whether the program's administrative processes could be improved. Audit findings and recommendations for improvement are presented in the following order:

- ♦ Enhancing the current database to improve documentation.
- ♦ Collecting a primary identifier for individuals.
- ♦ Addressing the amount of resources spent on over-payments and collections.

Documentation Supporting Eligibility and Payment Decisions

Statute establishes Insure Montana and sets standards for the eligibility of businesses participating in the program. Statute also provides Insure Montana the responsibility of ensuring businesses participating in the program meet eligibility standards as outlined in statute and that subsidy and tax credits payments are accurate. To document eligibility and payment decisions, Insure Montana relies on hard-copy documentation, as well as its database. However, the majority of eligibility and payments decisions are made using information located in the database. Currently, Insure Montana contracts with a third-party to provide maintenance and enhancement support to the database; the current contract allows for periodic updates.

Documentation is an Important Aspect of the Program

To test whether payments are accurate based on information reported to Insure Montana by businesses, we reviewed 38 randomly selected businesses' supporting documentation. Documentation reviewed included the businesses' initial and renewal applications, and information located in the businesses' hard-copy file and in Insure Montana's database.

Access to Historic Documentation Could Be Improved

During file review of businesses, we identified discrepancies between information used to calculate the businesses' payment and information located in the database and/or hard-copy documentation. For 14 businesses, we were unable to readily identify whether they had provided the information to Insure Montana through online renewal, a staff member made the change, or if the information was incorrectly reported on the database. For example, when reviewing the number of participating employees of a business, hard-copy documentation stated the business had three participating employees and information in the database showed there were five participating employees. Since there was no documentation in the hard-copy documentation or the database showing when or why the number of participating employees changed to five, we could not verify how many participating employees the business should have.

When we discussed these changes with Insure Montana staff, it was also unclear to them when the change occurred because the database automatically updates fields when changes are made and historical documentation is not readily available. Therefore, staff had to contact the database contractor to identify whether the change occurred during online renewal, staff made the change, or the change was made in error.

Once we obtained information from the database contractor, in the 14 cases, the change was elected by the small business during their online renewal. However, Insure Montana staff has limited capability to identify and access why or when fields in the database are changed since there is limited historical data readily available to them. This limits Insure Montana's ability to access all information related to the businesses' eligibility and/or payment decisions.

Enhancements to the Current Database Could Improve Documentation

The program has been working on the basic functionality of the Insure Montana database for the past two years. While program management implemented case notes in 2009 to support decisions made, the program has not prioritized implementing changes to the database that would allow program management and staff to access historical data. By staff not having an efficient and practical way of accessing a businesses' documentation, the program's ability to ensure subsidy payments, tax credits, and eligibility decisions are accurate is impacted.

RECOMMENDATION #4

We recommend the State Auditor's Office enhance the current Insure Montana database to ensure program staff have readily available access to a businesses' historical data.

Collection of Unique Primary Identifiers for Individuals

Currently Insure Montana collects social security numbers for purchasing pool participants, but not for tax credit participants. A unique primary identifier, such as a social security number, is an important component of effective administration. Unique identifiers assure accurate record keeping, prompt payment, and serve as an effective tool when verifying eligibility. Additionally, as discussed below, other identifiers (name, birth date, etc.) are rarely captured in the same manner.

Difficult to Verify Eligibility Without Unique Primary Identifiers

While conducting our review of Department of Revenue data discussed in Chapter II, we were able to obtain all businesses' tax status; however, it was cumbersome in some cases. These situations occurred when the business was registered as a sole proprietorship and the business owner filed on their individual tax return (Schedule C) or the business was a farming operation and reported its profit or loss from farming on their individual tax return (Schedule F). While the Department of Revenue was able to obtain these businesses' tax status using the business owner's name and the business name, it was not as reliable had the business owner's social security number been available.

Additionally, when conducting our review of Department of Labor and Industry's (DLI) Quarterly Unemployment Records we determined DLI uses individuals' social security numbers as the unique identifier. When testing income requirements and the number of eligible employees as discussed in Chapter II, some businesses had up to four employees with the same last name. In these cases, since DLI uses social security numbers as an individual's unique identifier and first names were not always available the only way to verify the individual's status was by using social security numbers. In 26 cases, we could not verify individuals' income since social security numbers are not collected for tax credit participants by the Insure Montana program.

Collecting a Unique Primary Identifier Could Assist the Program in Determining Eligibility

When the program was initially established in 2005, the program did not collect social security numbers for tax credit participants, therefore the database was never set-up for the input of tax credit participants' social security numbers. While the purchasing pool and tax credit programs provide different benefits to small businesses, the eligibility process is the same for both programs. Additionally, other state agencies use social security number as a unique identifier for individuals.

To ensure effective administration of the program, Insure Montana should collect a unique identifier for all participants and business owners. Since the collection of social security numbers for tax credit participants would need to be on a voluntary basis, another option for the program would be to collect the last four digits of participants' social security numbers.

RECOMMENDATION #5

We recommend the State Auditor's Office:

- A. *Enhance its current Insure Montana database to allow for the input of a unique primary identifier for all business owners and participating individuals for both programs.*
 - B. *Collect and apply the unique primary identifier of business owners and individuals for both programs.*
-

Overpayments and Collections Process

Businesses participating in the purchasing pool program currently receive incentive and assistance payments on the 1st of the month before health insurance premiums are due. Therefore, businesses and their employees are receiving benefits before the service is provided. In some cases, this causes the program to overpay a business and/or their employees. For example, if an employee decides to leave a business, Insure Montana would have already provided the business and that employee benefits; however, the business would not be required to pay the health insurance premium for that employee. Once Insure Montana receives notice that the individual was dropped from coverage, generally during the month, it is required to collect the assistance and incentive payments from the employee and the business.

Other States' Programs

When reviewing similar programs in other states, we identified two different ways in which programs are able to limit the number of ineligible payments made to individuals based on changes in coverage. These include:

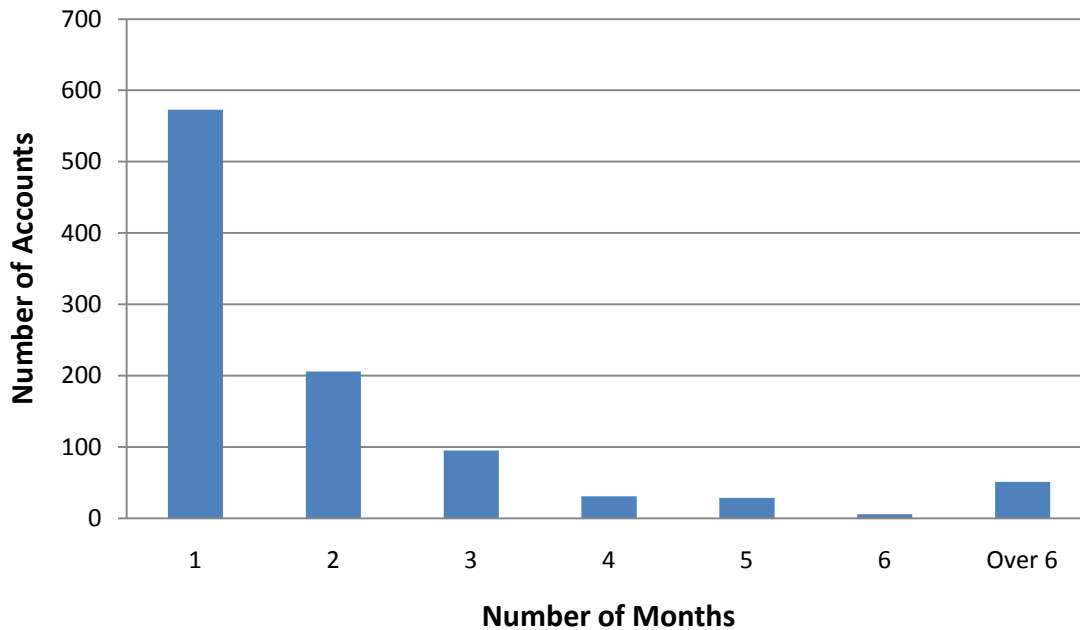
1. Kentucky's Insurance Coverage Affordability and Relief to small Employers program currently provides subsidy payments in arrears. Therefore, any groups that cancel health insurance coverage during the month will not receive the subsidy.
2. Idaho's Access to Health program currently pays the insurance carrier directly and the carrier charges the business and/or employees the "discounted" premium. Therefore, if the individual drops coverage, the premium is never paid, nor is the discount applied.

Majority of Overpayments Caused by Mid-Month Changes to Coverage

When reviewing overpayments and collections with program staff we calculated about 40 overpayments are processed each month. When overpayments are made, the program must collect the subsidy and incentive payments back from the business and the employee.

As of March 2010, Insure Montana had a total of 991 accounts with collections. As illustrated in the following figure, the majority of these accounts, 573 (58 percent) were for only one month of overpayment. According to program staff, the majority of one month overpayments are related to businesses and/or employees changing their insurance status during the month as discussed above.

Figure 2
Number of Collection Accounts by Months Overpaid
March 2010



Source: Compiled by the Legislative Audit Division from Insure Montana's records.

The total amount of overpayment for these 573 accounts was \$78,306. As of March 2010, 19 percent of the \$78,306 was still outstanding.

Resources Spent on Collections and Overpayments Could Be Redirected

During interviews, program staff and management indicated that between mailing collection notices and processing checks for overpayments, a significant amount of resources are used to collect overpayments. Since the majority of overpayments could be prevented by providing assistance and incentive payments in arrears or having them applied directly to the premium, the program could redirect these resources to enroll additional businesses into the program or address other administrative needs.

RECOMMENDATION #6

We recommend the State Auditor's Office address collections and overpayments by either:

- A. Providing assistance and incentive payments in arrears, or*
 - B. Applying assistance and incentive payments directly to the premium.*
-

CHAPTER IV – Statutory Guidelines for Insure Montana

Introduction

Insure Montana was established in 2005 and reached full capacity, due to funding limitations, in 2007. Because the State Auditor's Office has now had three years to establish and understand the program and its operations, we conducted audit work to assess statutory requirements related to Insure Montana's program administration. The following chapter presents audit work conducted in relation to Insure Montana's statutory requirements. Audit findings and recommendations for improvement are presented in the following order:

- ♦ Reviewing the definition of related employer.
- ♦ Addressing how the purchasing pool program is rated.
- ♦ Ensuring the governance role of the program is clearly defined.

Inclusion of Related Employers for Eligibility Purposes

Section 33-22-2006, MCA, states an employer is eligible to apply for premium incentive payments and premium assistance payments or a tax credit if the employer and any related employers meet eligibility criteria as outlined in §33-22-2006, MCA. Statute defines "related employers" as, persons having a relationship as described in section 267 of the Internal Revenue Code, 26 U.S.C. 267. This includes businesses owned by brothers and sisters (whether by whole or half blood), spouses, ancestors, and lineal descendants.

Current Statutory Definition of Related Employers May Exclude Some Businesses

Insure Montana must include the related employer's status when determining the eligibility of a business. Since this is the case, businesses in which the owners are related according to IRS code are required to combine their businesses' status for eligibility requirements. For example, if one business owner has six employees and the business owner's brother owns a separate business with four employees, according to current statutory requirements, these businesses would have a combined total of 10 employees for the purposes of determining eligibility for Insure Montana. Both businesses would therefore be ineligible for Insure Montana, even though they are not affiliated other than through the familial relationship between the owners. Program staff have identified situations in which this has occurred and the businesses, based on current statutory requirements, have been removed from the program.

When reviewing other states' programs, we identified Maryland's Health Insurance Partnership program defines a business as "companies that are affiliated companies or that are eligible to file a consolidated federal income tax return shall be considered one employer." Therefore, using the above example and Maryland's definition of a related employer, each of the brother's businesses would be treated as a separate business and would be eligible for Insure Montana.

Insure Montana's mission is to provide health insurance to small businesses; however, the current statutory definition of related employers may not align with the current mission. While individual businesses can control other eligibility requirements, (e.g. number of employees, wages of employees, etc.), it cannot control related employers as currently defined. Applying the current statutory definition could, therefore, have unintended consequences and result in small businesses being excluded from Insure Montana as a result of a familial relationship, even though they meet every other eligibility requirement and are in a position to benefit from the program's services. While the legislature originally chose to apply the IRS guidelines, Insure Montana program management is currently considering the need for amending the definition of related employer. Since the current definition of a related employer affects some small businesses' eligibility in the Insure Montana program, the definition of related employer could be reviewed to ensure eligibility requirements align with the program's mission.

RECOMMENDATION #7

We recommend the State Auditor's Office identify the impacts of current related employer restrictions to determine if there are unintended program results.

Rating Process for Purchasing Pool

To determine how much a health insurance plan will cost its customers, insurance companies use historical data and determine the risk of future claims on the policy. For example, a construction business would be considered riskier than a clerical business, which would increase the risk and therefore individuals' premiums. The contracted health insurance carrier for the purchasing pool is currently using health status when rating contracts for Insure Montana purchasing pool participants. Additionally, when participants select a Qualified Association Plan (QAP) instead of the purchasing pool insurance, health status is also used.

Statutory Requirements Outline How the Purchasing Pool Must Be Rated

Businesses participating in the purchasing pool program have the option of selecting health insurance plans offered through the purchasing pool or through QAPs. However, the following statutory requirements only apply to the purchasing pool health insurance plans and do not apply to health insurance plans offered through QAPs.

Section 33-22-2001(2), MCA, provides that the small business health insurance pool is created as a voluntary purchasing pool pursuant to the provisions of §§33-22-1815 through 33-22-1817, MCA. Section 33-22-1815(6)(a), MCA, states:

Disability insurance policies, certificates, or contracts offered through the voluntary purchasing pool must rate the entire purchasing pool group as a whole and charge each insured person based on a community rate within the common group, adjusted for case characteristics as permitted by the laws governing group disability insurance.

When reviewing the definition of “case characteristics” in §33-22-1803(9), it states:

Means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer, provided that gender, claims experience, health status, and duration of coverage are not case characteristics for purposes of this part.

This means participants in the purchasing pool can charge each individual a different rate as long as the rate is only adjusted for case characteristics as permitted by law. Therefore the rate can be adjusted based on demographics or the type of business (e.g. construction, clerical, etc.), but cannot be adjusted based on gender, claims experience, health status, or duration of coverage.

Current Rating Process Does Not Comply with Statutory Requirements

Current statutory language, as stated in the previous section does not allow for health status to be used when rating individuals in the purchasing pool. However, when reviewing the current insurance carrier’s Request for Proposal and discussing the issue with program management, the current carrier is rating contracts using health status.

While the program is aware of the use of health status when rating contracts and has chosen to allow the current contractor to use health status, it has concerns over

the viability of the purchasing pool. The concern is that the purchasing pool would become a high risk pool due to adverse selection since QAPs are not required to follow the same rating guidelines established in statute. While this may or may not be a legitimate concern, the program should ensure it is in compliance with statutory requirements.

RECOMMENDATION #8

We recommend the State Auditor's Office comply with §33-22-2001(2), MCA, for current activities and if necessary, address statutory changes to assure future, long-term options for the purchasing pool.

Statutory Governance Responsibilities

The Commissioner of Securities and Insurance (Insurance Commissioner) is responsible for the management the State Auditor's Office and protecting consumers through insurance and securities regulation. Insure Montana is administered by the State Auditor's Office and program staff work under the insurance division of the office. Additionally, a governing Board was established for the purchasing pool program.

While reviewing statute, we identified §33-22-2004, MCA, outlines the powers and duties of the Board of Directors. However §33-22-2005, MCA, allows for the Insurance Commissioner to approve or disapprove certain decisions made by the Insure Montana Board of Directors. The areas in which the duties of the Board of Directors and the Commissioner overlap include:

- ♦ Establishment of an operating plan.
- ♦ Selection of a third-party administrator to handle the administration of the purchasing pool.
- ♦ Schedule of premium incentive or premium assistance amounts.
- ♦ Contracts between a health insurance issuer and the purchasing pool.
- ♦ Group health plans offered by insurers through the purchasing pool.

Current Statute Could Potentially Lead to Governance Issues

Based on current statutory language, there could potentially be disagreements between the Board of Directors and the Insurance Commissioner, in which resolution may not be reached. For example, the Board is responsible for entering into contracts with health insurance companies; however, the Insurance Commissioner must approve

or disapprove these decisions. If the Insurance Commissioner does not approve the Board's selection for a contract, it is unclear what steps would be taken to ensure an insurance product continues to exist. While current statutory language was enacted in 2005, it did not establish whether the Insurance Commissioner or the Board of Directors is responsible for final authority of the above decisions.

Other Governance Structures are Clearly Defined

While reviewing other states' programs similar to Insure Montana we identified various governance structures exist. Specific to the issue of governance responsibilities of appointed boards, we reviewed the Washington Health Insurance Program's (HIP) governance structure, which is set-up similar to Insure Montana., Governance responsibilities for this board are more clearly defined in statute. For example, both an executive administrator and an appointed Board are established according to statute, but the administrator is responsible for the implementation and operation of HIP and the Board, which is chaired by the administrator, is responsible for developing policies and designated health benefit plans.

Appointed boards allow for public scrutiny which ensures transparency and accountability in the administration of a program. However, if the Board's role is not clearly defined, decisions may not be reached. Since disagreements could occur between the Insurance Commissioner and the Board of Directors that could affect the administration of the program, statute could be clarified to ensure the governance structure of the program is clearly defined.

RECOMMENDATION #9

We recommend the Legislature ensure the governance responsibilities of the Insure Montana Board of Directors and the Insurance Commissioner are clearly defined.

STATE AUDITOR'S OFFICE

OFFICE RESPONSE

COMMISSIONER OF SECURITIES & INSURANCE

A-1

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

November 29, 2010

Ms. Tori Hunthausen
Legislative Auditor
Office of the Legislative Auditor
State Capitol
P.O. Box 201705
Helena, MT 59620-1705

Dear Ms. Hunthausen:

We have received your final report on the performance audit of the Insure Montana program. Thank you for the opportunity to respond to the recommendations.

Recommendation #1

We recommend the State Auditor's Office require verification of income for both business owners and employees participating in the Insure Montana program.

Agency Response:

We concur with this recommendation. The Commissioner of Securities & Insurance, Montana State Auditor (CSI), concurs that Mont. Code Ann. § 33-22-2006(1)(e) prohibits a business from participating in the Insure Montana program if an employee, other than the owner, received more than \$75,000 in wages from the business or related business in the prior tax year. The CSI disputes the Legislative Audit Division's (LAD's) numbers because the statute is ambiguous as to when ineligibility is processed and when the effective date of closure is implemented. However, the CSI will attempt to implement the recommendation, but it will require immense staff resource time and may be impossible to complete or to provide a definite date when this could be accomplished because of the almost 4,000 employees or owners whose incomes must be verified. Until staff resource time becomes available, the program will continue to conduct in-house audits to avoid issuing improper benefits.

Recommendation #2

We recommend the State Auditor's Office verify the number of eligible employees for businesses participating in the Insure Montana program.

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Agency Response:

We concur with this recommendation. The CSI continues to attempt to verify the number of eligible employees for the businesses participating in the Insure Montana program. The CSI disputes the LAD's numbers, as two of the nine businesses did report on their renewal application in October 2010 that they now employ more than nine eligible employees. These two businesses are slated to end participation in the program effective December 31, 2010, and, therefore, improper benefits have not been issued to these two businesses. The CSI will attempt to implement the recommendation, but it will require immense staff resource time and may be impossible to complete or to provide a definite date when this could be accomplished because of the over 1,600 businesses whose eligible employees must be verified.

Recommendation #3

We recommend the State Auditor's Office verify all participating businesses' state income tax delinquency status for both purchasing pool and tax credit programs.

Agency Response:

We concur with this recommendation. The CSI is currently working with the Department of Revenue (DOR) to implement a memorandum of understanding (MOU) to allow Insure Montana staff access to DOR delinquent state income tax information. It is also hoped that a system data match can be accomplished to verify the state income tax status of all businesses currently participating in the Insure Montana program.

Recommendation #4

We recommend the State Auditor's Office enhance the current Insure Montana database to ensure program staff have readily available access to a businesses' historical data.

Response:

We concur with this recommendation. This system enhancement has been listed on the program's system enhancement backlog list for a couple of years. However, this enhancement has not been given a high priority because: (1) the need to know when a change was made to the database applications has only come up once in the past year; (2) cost; and (3) the history is very easily accessed by the system contractor at a much lower cost to the program than paying the contractor hours of database coding to

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complete this enhancement. As money and resources become available, the CSI will attempt to implement this recommendation.

Recommendation #5

We recommend the State Auditor's Office:

- A. Enhance its current Insure Montana database to allow for the input of a unique primary identifier for all business owners and participating individuals for both programs.
- B. Collect and apply the unique primary identifier of business owners and individuals for both programs.

Agency Response:

The CSI concurs that it would be beneficial for audit purposes to collect the Social Security number for employees participating in the tax credit program. However, lack of resources and money may prevent the CSI from implementing the recommendation in a timely fashion.

Recommendation #6 – We recommend the State Auditor's Office address collections and overpayments by either:

- A. Providing assistance and incentive payments in arrears, or
- B. Applying assistance and incentive payments directly to the premium.

Response:

- A. We do not concur with this recommendation. Providing assistance and incentive payments in arrears would discourage low-income employees from enrolling in or continuing to participate in the program because they would be unable to pay their full monthly premium amount up front without the subsidy provided by the Insure Montana program. Small businesses struggling to meet financial obligations may also decline to enroll or choose to drop the health insurance coverage for their employees due the inability to meet the business' portion of the employees' premiums up front.
- B. We do not concur with this recommendation. Insure Montana explored the idea of paying the assistance and incentive payments directly to the insurance carrier,

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but this option was determined to be detrimental to small business owners participating in the purchasing pool program. These small businesses generally do not have a Human Resources department and, therefore, the determination of what amount should be deducted from each employee's wages would fall on the shoulders of the small business owners. The amount to be deducted would be difficult and confusing to determine and would need to be adjusted each time there was a change in an employee's assistance amount. Due to the burden of time and effort required by the small business owners, this option was not implemented.

The CSI, moreover, has implemented other avenues to decrease the number of overpaid assistance and incentive payments. Insure Montana staff worked together with Blue Cross Blue Shield of Montana (BCBSMT) to develop a process where BCBSMT sends a weekly electronic file to Insure Montana staff reporting any changes in participating employee's enrollment or coverage type. Also, BCBSMT sends Insure Montana staff a weekly electronic file to report any participating businesses that are in delinquent status and are in danger of losing health insurance coverage. These two weekly reports have significantly reduced the number of overpaid benefits. Insure Montana is also working with carriers of the Qualified Association Plans (QAP) to arrange to receive the same reports for the businesses enrolled in plans offered by the QAP's.

Other measures taken to decrease the number of overpaid benefits are:

- Change report forms available on the program's website;
- Change reporting information printed on the back of all Insure Montana letterhead;
- Information provided in program newsletters; and
- Information provided to insurance agents at agent training sessions.

Recommendation #7

We recommend the State Auditor's Office identify the impacts of current related employer restrictions to determine if there are unintended program results.

Response:

We concur with this recommendation to change the current definition of a related employer and has included this change in the CSI's housekeeping bill (LC 0277) to be submitted to the 2011 Legislature. The CSI believes the proposed change will eliminate most unintended results.

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Recommendation #8 – We recommend the State Auditor's Office comply with §33-22-2001(2), MCA, for current activities and if necessary, address statutory changes to assure future, long-term options for the purchasing pool.

Agency Response:

The CSI concurs that the rating method used to determine premium rates for the purchasing pool program is determined in part by health status. The CSI notes, however, that the purchasing pool would be subject to adverse selection if it used a different method to determine premium rates than the method used by QAP's, specifically with regard to using health status to determine premium rates. The CSI will continue to work together with the Insure Montana Board of Directors to develop a plan to address this issue by either proposing legislation to allow the purchasing pool to use health status or by accepting the risk of adverse selection by complying with the statute.

Recommendation #9

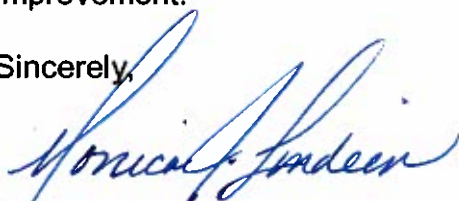
We recommend the Legislature ensure the governance responsibilities of the Insure Montana Board of Directors and the Insurance Commissioner are clearly defined.

Agency Response:

Not applicable. The CSI agrees that the possibility exists where there could potentially be disagreements between the Commissioner and the Board of Directors. However, Mont. Code Ann. § 33-22-2005 defines the duties of the Insurance Commissioner and provides that the Insurance Commissioner must approve or disapprove of many actions of the Board. Ultimately, the CSI defers to the will of the Legislature on this recommendation.

We would like to thank your staff for their time and effort during the audit. They were very professional and helpful addressing the issues and pointing out areas that need improvement.

Sincerely,



Monica J. Lindeen
Commissioner of Securities & Insurance
Office of the Montana State Auditor